

**2013 DRAFTING REQUEST****Bill**

Received:	<b>3/6/2013</b>	Received By:	<b>mgallagh</b>
Wanted:	<b>As time permits</b>	Same as LRB:	<b>-2228</b>
For:	<b>Mike Kuglitsch (608) 267-5158</b>	By/Representing:	<b>Matt</b>
May Contact:		Drafter:	<b>mgallagh</b>
Subject:	<b>Econ. Development - bus. dev. Econ. Development - misc.</b>	Addl. Drafters:	
		Extra Copies:	<b>RAC; FFK</b>

Submit via email: **YES**  
 Requester's email: **Rep.Kuglitsch@legis.wisconsin.gov**  
 Carbon copy (CC) to: **michael.gallagher@legis.wisconsin.gov**

**Pre Topic:**

No specific pre topic given

**Topic:**

Creation of fund of funds investment program

**Instructions:**

See attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mgallagh 4/17/2013	kfollett 4/17/2013	rschluet 4/17/2013	_____			
/P1	mgallagh 4/22/2013	kfollett 4/22/2013	phenry 4/22/2013	_____	lparisi 4/17/2013		State
/1	mgallagh 4/23/2013	kfollett 4/23/2013	phenry 4/23/2013	_____	mbarman 4/22/2013		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/2				<u>          </u> <u>          </u>	srose 4/23/2013	sbasford 4/23/2013	State

FE Sent For:

*at intro*  
*4/29*

<END>

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				<u>          </u>	4/23/2013		

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/1		<i>12kf</i> <i>4/23</i>	<i>4/23</i> <i>pr</i>	<i>pr</i> _____	mbarman 4/22/2013		State

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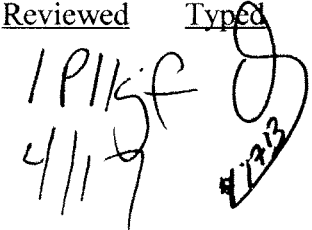
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/?	mgallagh	1 P115f 4/11/13		_____	_____		

FE Sent For:

<END>

## Gallagher, Michael

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**From:** Spencer, Matt  
**Sent:** Wednesday, March 06, 2013 10:05 AM  
**To:** Gallagher, Michael  
**Subject:** RE: Investment Capital Drafting Request

Mike,

We would like a separate bill draft. It is my understanding that the Governor has proposed \$25 million dollars for an Investment Capital program. In the budget, I believe the money is being housed in DOA until a program is constructed.

Thanks,

Matthew Spencer  
Office of Representative Mike Kuglitsch  
(608) 267-5158

---

**From:** Gallagher, Michael  
**Sent:** Wednesday, March 06, 2013 10:03 AM  
**To:** Spencer, Matt  
**Subject:** RE: Investment Capital Drafting Request

Matt:

I note that the intent is to use \$25 million set aside in the budget. Do you want me to draft this as a budget amendment or as a separate bill request?

**Mike Gallagher**  
Attorney  
Wisconsin Legislative Reference Bureau  
(608) 267-7511

---

**From:** Spencer, Matt  
**Sent:** Tuesday, March 05, 2013 6:58 AM  
**To:** Gallagher, Michael  
**Subject:** RE: Investment Capital Drafting Request

Also, can we get this as P-Draft

Thanks  
Sent via the Samsung Galaxy S™III, an AT&T 4G LTE smartphone

----- Original message -----

From: "Gallagher, Michael" <[Michael.Gallagher@legis.wisconsin.gov](mailto:Michael.Gallagher@legis.wisconsin.gov)>  
Date:  
To: "Spencer, Matt" <[Matt.Spencer@legis.wisconsin.gov](mailto:Matt.Spencer@legis.wisconsin.gov)>, "Kreye, Joseph" <[Joseph.Kreye@legis.wisconsin.gov](mailto:Joseph.Kreye@legis.wisconsin.gov)>  
Subject: RE: Investment Capital Drafting Request

Got it, Matt. I'll get back to you with any questions.

Mike

**Michael P. Gallagher**

Legislative Attorney

Wisconsin Legislative Reference Bureau

1 East Main Street, Suite 200

P.O. Box 2037

Madison, WI 53701-2037

(608) 267-7511

**[michael.gallagher@legis.wisconsin.gov](mailto:michael.gallagher@legis.wisconsin.gov)**

---

**From:** Spencer, Matt

**Sent:** Monday, March 04, 2013 10:28 AM

**To:** Gallagher, Michael; Kreye, Joseph

**Subject:** Investment Capital Drafting Request

Good Morning,

Last year, you worked on our Venture Capital bill, and Rep. Kuglitsch has asked me to send over drafting instructions for a new Investment Capital bill. If you have any questions, as I'm sure you will, please feel free to contact our office. I believe the instructions are pretty straight forward.

Regards,

Matthew Spencer

Office of State Representative Mike Kuglitsch

(608)267-5158

## **Fund of Funds Drafting Instructions**

The Legislation should contain five components

- 1 Define the amount of GPR to be spent
  - 2 Determine who will choose the fund manager and how
  - 3 Set the broad parameters of the contract terms for the FoF manager
  - 4 Determine how and when the state will be paid back
  - 5 Define the monitoring and reporting requirements
- 

### **1. Define the amount of GPR to be spent**

This is fairly straightforward. The governor has included a \$25 million placeholder in the biennial budget. Therefore, the bill should direct that \$25 million be spent on an investment capital fund of funds. It should be held in a JFC account until WEDC presents a final fund manager contract under passive review.

### **2. Determine who will choose the fund manager and how**

The legislation should require WEDC, in consultation with SWIB, to conduct a formal RFP to choose a fund manager with the highest quality, lowest cost, and who is most responsive to the terms of the RFP. The members of the screening panel shall be chosen by the CEO of WEDC, again in consultation with SWIB, in a manner consistent with the state's procurement policy.

WEDC will then enter into a contingent contract with the chosen fund manager containing specific terms consistent with the legislation. Once that contract is signed, WEDC will present it to JFC under a 10 day passive review. JFC can only object if the terms of the contract are contrary to the broad parameters contained in the legislation. If such an objection occurs, WEDC must create a new contract with the same fund manager and present it to JFC again under passive review.

### **3. Set the broad parameters of the contract terms for the FoF manager**

The legislation should require that the FoF manager contract contain the following:

- A The FoF manager must be required to raise, at minimum, an additional \$5 million from private investors to be added to the state's \$25 million.
- B The manager must further contribute to the fund an amount equal to 1% of the total fund size.

- C All funds managed by the fund of funds manager must be invested in certified, Wisconsin-based investment funds.
- D The FoF manager must ensure that its investments in certified funds receive equal terms to all other limited partners.
- E The FoF manager must ensure that each certified fund invest an amount equal to the FoF contribution in Wisconsin-based companies.
- F The FoF manager must ensure that the certified funds raise, as a program average, matching funds on a 2:1 basis, with a minimum 1:1 match for any individual fund.
- G The FoF manager must invest in at least four certified funds, with no individual fund receiving more than \$10 million.
- H The FoF manager must ensure a geographic and industry sector diversity in their investment strategy
- I The FoF manager shall not receive an annual management fee exceeding 1% of the total fund size and shall cease collecting fees when the final investment is made into a certified fund.
- J The FoF manager must ensure that all funds are disbursed to certified funds after a maximum two year period.
- K The FoF manager shall also receive as compensation 10% of all profits to the fund only after all principle investments are repaid.

#### **4. Determine how and when the state will be paid back**

All investment returns received by the FoF manager will be used to pay down the principle investments on a prorated basis to all investors. Once the full principle is repaid, all future profits will be split with 10% being paid in compensation to the FoF manager and 90% being disbursed to the fund investors in proportion to their principle investments.

#### **5. Define the monitoring and reporting requirements**

The legislation should require WEDC to report certain items to the Legislature in its annual Act 125 Report and include language in the FoF manager contract to ensure the collection of adequate data to fulfill this reporting requirement. The items should include:

- A An accounting of the financial status of the fund, including the opinion of an independent certified public accountant.
- B The current investment policy of the fund.
- C The fund's internal rate of return from its investments of fund capital.
- D An accounting of any compensation, including a management fee, paid to the investment manager during the preceding year.
- E For each certified venture capital fund in which the FoF manager held an investment of fund capital during the preceding year, the name and address of the venture capital fund; the amount with each certified venture capital fund; and an accounting of any fee

the certified venture capital fund paid to itself or any principal or manager of the certified venture capital fund during the preceding year.

- F For each business in which a certified venture capital fund held an investment of FoF capital during the preceding year, the name and address of the business; a description of the nature of the business; the amount of each investment of fund capital in the business and the amount contributed to that investment by the certified venture capital fund from other funding sources; an identification of the certified venture capital fund that made the investment; the internal rate of return realized by the certified venture capital fund on each investment; and a statement of the number of employees the business employed on January 1 of the preceding year and the number of employees the business employed on December 31 of the preceding year.

The legislation should also require WEDC to submit to JFC two reports on the effectiveness of the program to date; the first no later than March 1, 2015 and the second no later than March 1, 2018. The reports should include all of the following:

- A A comprehensive assessment of the performance to date of the fund.
- B Any recommendations WEDC has for improvement of the programs administered by the authority and the specific actions the authority intends to take or proposes to be taken to implement those recommendations.
- C Any recommendations the Investment Board has for improvement of the FoF program and the specific actions the Investment Board proposes to be taken to implement those recommendations.

**Gallagher, Michael**

---

**From:** Spencer, Matt  
**Sent:** Monday, March 04, 2013 10:28 AM  
**To:** Gallagher, Michael; Kreye, Joseph  
**Subject:** Investment Capital Drafting Request  
**Attachments:** Drafting Instructions - 25 million FoF - 2013.02.22.docx

Good Morning,

Last year, you worked on our Venture Capital bill, and Rep. Kuglitsch has asked me to send over drafting instructions for a new Investment Capital bill. If you have any questions, as I'm sure you will, please feel free to contact our office. I believe the instructions are pretty straight forward.

Regards,

Matthew Spencer  
Office of State Representative Mike Kuglitsch  
(608)267-5158

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Also, can we get this as P-Draft

Thanks

Sent via the Samsung Galaxy S™III, an AT&T 4G LTE smartphone

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**From:** "Gallagher, Michael" <[Michael.Gallagher@legis.wisconsin.gov](mailto:Michael.Gallagher@legis.wisconsin.gov)>  
**Date:**  
**To:** "Spencer, Matt" <[Matt.Spencer@legis.wisconsin.gov](mailto:Matt.Spencer@legis.wisconsin.gov)>, "Kreye, Joseph" <[Joseph.Kreye@legis.wisconsin.gov](mailto:Joseph.Kreye@legis.wisconsin.gov)>  
**Subject:** RE: Investment Capital Drafting Request

Got it, Matt. I'll get back to you with any questions.

Mike

**Michael P. Gallagher**

Legislative Attorney

Wisconsin Legislative Reference Bureau

1 East Main Street, Suite 200

P.O. Box 2037

Madison, WI 53701-2037

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Regards,

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Office of State Representative Mike Kuglitsch

(608)267-5158

**Gallagher, Michael**

---

**From:** Spencer, Matt  
**Sent:** Friday, March 08, 2013 10:52 AM  
**To:** Gallagher, Michael; Evenson, Andrew  
**Subject:** RE: Drafting Change

I believe so, I would just confirm with Evenson from Darling office.

Matthew Spencer  
Office of Representative Mike Kuglitsch  
(608) 267-5158

---

**From:** Gallagher, Michael  
**Sent:** Friday, March 08, 2013 7:33 AM  
**To:** Spencer, Matt; Evenson, Andrew  
**Subject:** RE: Drafting Change

I should include these changes in the Sen. Darling draft, correct?

**Mike Gallagher**  
Attorney  
Wisconsin Legislative Reference Bureau  
(608) 267-7511

---

**From:** Spencer, Matt  
**Sent:** Thursday, March 07, 2013 6:34 PM  
**To:** Gallagher, Michael; Evenson, Andrew  
**Subject:** Drafting Change

Good Morning,

Attached is the updated drafting instructions. The changes from the original are highlighted in red.

Thanks,

Matthew Spencer  
Office of Representative Mike Kuglitsch  
(608) 267-5158

**Gallagher, Michael**

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**From:** Spencer, Matt  
**Sent:** Thursday, March 07, 2013 6:34 PM  
**To:** Gallagher, Michael; Evenson, Andrew  
**Subject:** Drafting Change  
**Attachments:** Drafting Instructions - 25 million FoF - 2013 03 07.docx

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- E The FoF manager must ensure that each certified fund invest an amount equal to the FoF contribution in Wisconsin-based companies.
- F The FoF manager must ensure that the certified funds raise, as a program average, matching funds on a 2:1 basis, with a minimum 1:1 match for any individual fund.
- G The FoF manager must invest in at least four certified funds, with no individual fund receiving more than \$10 million.
- H The FoF manager must ensure a geographic and industry sector diversity in their investment strategy
- I The FoF manager shall not receive an annual management fee exceeding 1% of the total fund size and shall cease collecting fees when the final investment is made into a certified fund.
- J The FoF manager must ensure that all at least 50% of the FoF funds are disbursed to the certified funds one year from the date of signing the contract with WEDC, with all funds disbursed no later than two years from the signing of the contract with WEDC.
- K The certified funds must ensure that at least 50% of the funds received from the FoF are disbursed within one year of receiving the funds, with all of the funds received from the FoF no later than two years from receiving the funds.
- L The FoF manager shall also receive as compensation 10% of all profits to the fund only after all principle investments are repaid.

#### **4. Determine how and when the state will be paid back**

All investment returns received by the FoF manager will be used to pay down the principle investments on a prorated basis to all investors. Once the full principle is repaid, all future profits will be split with 10% being paid in compensation to the FoF manager and 90% being disbursed to the fund investors in proportion to their principle investments.

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- F For each business in which a certified venture capital fund held an investment of FoF capital during the preceding year, the name and address of the business; a description of the nature of the business; the amount of each investment of fund capital in the business and the amount contributed to that investment by the certified venture capital fund from other funding sources; an identification of the certified venture capital fund that made the investment; the internal rate of return realized by the certified venture capital fund on each investment; and a statement of the number of employees the business employed on January 1 of the preceding year and the number of employees the business employed on December 31 of the preceding year.

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- C Any recommendations the Investment Board has for improvement of the FoF program and the specific actions the Investment Board proposes to be taken to implement those recommendations.

## Gallagher, Michael

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**From:** Spencer, Matt  
**Sent:** Wednesday, April 17, 2013 9:42 AM  
**To:** Gallagher, Michael  
**Subject:** Morning  
**Attachments:** 13-1723\_1.pdf

Good Morning,

We would like our own P-draft for the Assembly as soon as possible, with the added language below.

**Agriculture** – Food processing, packaging and safety; urban agriculture; sustainable production; field surveillance and crop management.

**Information Technology** – Software; mobile applications; computing systems; internet networking, electronic health records and medical informatics.

**Engineered Products** – Nanotechnology; materials science; controls, circuits and processors; energy generation and conservation; and natural resource management.

**Advanced Manufacturing** – Product and process design and improvement, robotics, automated systems, composite materials; power systems; RFID and supply chain integration.

**Medical Devices and Imaging** – Devices include instruments, implants and apparatus used to diagnose, prevent or treat disease or other conditions. Imaging includes techniques and processes (such as X-rays, MRIs and CAT scans) used to create images of the human body, or its parts and functions, to reveal, diagnose or examine disease.

Thank you,

Matthew Spencer  
Office of Representative Mike Kuglitsch  
(608) 267-5158



4/17

Today: *Frank*

State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-1723/3  
MPG:kjf:JA

2013 BILL

LPS:  
check for  
Notes in  
this /PI version  
and delete them

No changes

1812/PI

Regen

- 1 AN ACT to create 25.17 (72), 238.03 (4) and 238.155 of the statutes; relating to:
- 2 venture capital investment program.

*Analysis by the Legislative Reference Bureau*

This bill directs the Wisconsin Economic Development Corporation (WEDC) to establish an economic development program that operates like what is often referred to as a "fund of funds." Typically, under a fund of funds investment model, an investment fund invests moneys with other investment funds that in turn invest those moneys directly in operating businesses. Under this bill, WEDC must contract with an investment manager to manage investments in venture capital funds and Wisconsin businesses.

Before WEDC contracts with an investment manager, WEDC and the State of Wisconsin Investment Board (SWIB) must form a committee to select the investment manager. A majority of the committee's members must be representatives of SWIB. WEDC's proposed contract with the investment manager is subject to passive review by the Joint Committee on Finance (JCF). However, under the bill, JCF's review of the contract is limited to determining whether the contract is contrary to the bill or fails to implement an applicable provision of the bill.

The bill requires WEDC to pay \$25,000,000 to the investment manager for investments in venture capital funds. The bill also requires the investment manager to contribute to those investments \$300,000 of its own moneys and \$5,000,000 raised from other funding sources. The investment manager must attempt to invest all of those moneys within 24 months after the date the investment manager executes the contract with the corporation, and the investment manager must invest those

**BILL**

moneys in at least four different venture capital funds. The investment manager may not invest more than \$5,000,000 in any one venture capital fund.

The bill requires the investment manager to contract with each venture capital fund that receives moneys under the program created in the bill. Under that contract, each venture capital fund must do all of the following:

1. Invest all of the moneys the venture capital fund receives under the program in businesses that are headquartered in Wisconsin and employ at least 50 percent of their full-time employees in Wisconsin. If, within three years after the venture capital fund makes an investment in a business under the program, the business relocates its headquarters outside of Wisconsin or fails to employ at least 50 percent of its full-time employees in Wisconsin, the venture capital fund must recover the total amount of moneys the venture capital fund invested in the business under the program, including any matching funds, and reinvest those moneys in one or more eligible businesses, subject to the bill's requirements.

2. Invest at least one-half of those moneys in businesses within 24 months after the venture capital fund receives the moneys and invest all of the moneys in businesses within 48 months.

3. Invest all of those moneys in businesses in the agriculture, information technology, engineered products, advanced manufacturing, or medical devices and imaging industries and attempt to ensure that those moneys are invested in businesses that are diverse with respect to geographic location within Wisconsin.

4. At least match the amount of the moneys the investment manager contributes to an investment in a business with an investment of moneys in that business that the venture capital fund has raised from other funding sources. The bill also requires the investment manager to attempt to ensure that, on average, a venture capital fund invests \$2 in a business for every \$1 the investment manager contributes to the investment in that business.

5. Provide to the investment manager the information necessary for the investment manager to make its annual report to WEDC, described below.

6. Disclose to the investment manager and to WEDC any interest that the venture capital fund or one of its owners or other representatives or agents holds in a business in which the venture capital fund invests or intends to invest moneys under the program.

Similarly, the bill requires the investment manager to disclose to WEDC any interest that it or an owner or other representative or agent of the investment manager holds in a venture capital fund that receives moneys under the program or a business in which a venture capital fund invests such moneys. Also, the investment manager's profit-sharing agreement with a venture capital fund under the program must be on terms that are substantially equivalent to the terms applicable for other funding sources of the venture capital fund.

Under the bill, the investment manager must set aside and pay to the state its proceeds from investments of the moneys contributed to the program by WEDC until the investment manager has paid the state \$25,000,000, the amount of WEDC's contribution. After that point, the investment manager must pay 90 percent of its proceeds from such investments to the state.

**BILL**

The bill requires the investment manager to submit a report to WEDC each year within 90 days after the end of the investment manager's fiscal year that includes all of the following:

1. An audit of the investment manager's financial statements performed by an independent certified public accountant.

2. The investment manager's internal rate of return from investments in venture capital funds under the program.

3. For each venture capital fund that received an investment under the program: a) the name and address of the venture capital fund; b) the amount of the investment; and c) an accounting of any fees the venture capital fund paid to itself or any principal or manager.

4. For each business in which a venture capital fund held an investment of moneys contributed by the investment manager under the program: a) the name and address of the business; b) a description of the nature of the business; c) an identification of the venture capital fund that made the investment; d) the amount of each investment in the business and the amount contributed by the venture capital fund; e) the internal rate of return realized by the venture capital fund on the investment; and f) a statement of the number of employees the business employed when the venture capital fund first invested in the business under the program, the number of employees the business employed on the first day of the investment manager's fiscal year, and the number of employees the business employed on the last day of the investment manager's fiscal year.

WEDC must submit the investment manager's report to the legislature.

The bill also requires WEDC to submit to JCF two progress reports, one in 2015 and one in 2018. Each report must include all of the following:

1. A comprehensive assessment of the performance to date of the investment program created in the bill.

2. Any recommendations WEDC has for improving the investment program and the specific actions WEDC intends to take or proposes to be taken to implement those recommendations.

3. Any recommendations SWIB has for improving the investment program and the specific actions SWIB proposes to be taken to implement those recommendations.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 25.17 (72) of the statutes is created to read:

2           25.17 (72) Appoint the board's representatives to the committee under s.  
3           238.155 (3) (a).

4           **SECTION 2.** 238.03 (4) of the statutes is created to read:

**BILL****SECTION 2**

1           238.03 (4) The board shall appoint the corporation's representatives to the  
2 committee under s. 238.155 (3) (a).

3           **SECTION 3.** 238.155 of the statutes is created to read:

4           **238.155 Fund of funds investment program. (1) DEFINITION.** In this  
5 section, "investment manager" means the person the committee selects under sub.  
6 (3) (a).

7           **(2) ESTABLISHMENT OF PROGRAM.** The corporation shall establish an economic  
8 development program for the investment of moneys in venture capital funds that  
9 invest in businesses located in this state.

10          **(3) SELECTION OF INVESTMENT MANAGER. (a)** The investment board and the  
11 corporation shall form a committee, consisting of representatives of the investment  
12 board and the corporation, to select the investment manager. The majority of the  
13 committee's members shall be representatives of the investment board. The  
14 committee shall select a person as investment manager that has expertise in the  
15 venture capital or private equity asset class.

16          **(b) 1.** The corporation shall notify in writing the joint committee on finance of  
17 the investment manager selected under par. (a). The notice shall include the  
18 corporation's proposed contract with the investment manager.

19          **2.** If, within 14 working days after the date of the corporation's notice under  
20 subd. 1., the cochairpersons of the joint committee on finance do not notify the  
21 corporation that the committee has scheduled a meeting to determine whether the  
22 corporation's proposed contract with the investment manager is contrary to this  
23 section or fails to implement an applicable provision of subs. (4) to (7), the corporation  
24 and investment manager may execute that contract. If, within 14 working days after  
25 the date of that notice, the cochairpersons of the committee notify the corporation

**BILL**

1 that the committee has scheduled that meeting, the corporation and investment  
2 manager may execute the contract unless the committee determines at that meeting  
3 that the contract, in whole or in part, is contrary to this section or fails to implement  
4 an applicable provision of subs. (4) to (7).

5 (4) CONTRACT WITH INVESTMENT MANAGER; DISCLOSURE REQUIREMENT. (a) Subject  
6 to sub. (3) (b), the corporation shall contract with the investment manager. The  
7 contract shall establish the investment manager's compensation, including any  
8 management fee. Any management fee may not exceed \$250,000 annually. The  
9 investment manager's total compensation under the contract, including all  
10 management fees paid, may not exceed \$800,000.

11 (b) The investment manager shall disclose to the corporation any interest that  
12 it or an owner, stockholder, partner, officer, director, member, employee, or agent of  
13 the investment manager has in a venture capital fund that receives moneys under  
14 sub. (5) (b) or a business in which a venture capital fund invests those moneys.

15 (5) INVESTMENTS IN VENTURE CAPITAL FUNDS. (a) Subject to sub. (4) (a), the  
16 corporation shall pay \$25,000,000 to the investment manager in fiscal 2013-14.

17 (b) The investment manager shall invest the following moneys in at least 4  
18 venture capital funds:

- 19 1. The moneys under par. (a).
- 20 2. At least \$300,000 of the investment manager's own moneys.
- 21 3. At least \$5,000,000 that the investment manager raises from sources other  
22 than the corporation.

23 (c) 1. Of the moneys designated under par. (b), the investment manager may  
24 not invest more than \$5,000,000 in a single venture capital fund.

**BILL****SECTION 3**

1           2. Of the moneys designated under par. (b), the investment manager shall  
2 attempt to invest at least one-half of those moneys within 12 months after the date  
3 the investment manager executes the contract under sub. (4) (a), and the investment  
4 manager shall attempt to invest all of those moneys within 24 months after that date.

5           (d) The investment manager shall contract with each venture capital fund that  
6 receives moneys under par. (b). Each contract shall require the venture capital fund  
7 to do all of the following:

8           1. Invest all of the moneys it receives under par. (b) in one or more businesses  
9 that are headquartered in this state and that employ at least 50 percent of their  
10 full-time employees, including any subsidiary or other affiliated entity, in this state.  
11 If, within 3 years after the venture capital fund makes an investment in a business  
12 under this subdivision, the business relocates its headquarters outside of this state  
13 or fails to employ at least 50 percent of its full-time employees, including any  
14 subsidiary or other affiliated entity, in this state, the venture capital fund shall  
15 recover from the business the total amount of moneys the venture capital fund  
16 invested in the business under this subdivision and subd. 4. and reinvest those  
17 moneys in one or more businesses that are eligible to receive an investment under  
18 this subdivision, subject to the requirements of this section.

19           2. Invest at least one-half of any moneys it receives under par. (b) in businesses  
20 within 24 months after the date it receives those moneys and invest all of those  
21 moneys in businesses within 48 months after that date.

22           3. Invest all of the moneys it receives under paragraph (b) in businesses in the  
23 agriculture, information technology, engineered products, advanced manufacturing,  
24 or medical devices and imaging industries and attempt to ensure that all of those

**BILL**

1 moneys are invested in businesses that are diverse with respect to geographic  
2 location within this state.

3 4. At least match any moneys it receives under par. (b) and invests in a business  
4 with an investment in that business of moneys the venture capital fund has raised  
5 from sources other than the investment manager. The investment manager shall  
6 attempt to ensure that, on average, for every \$1 a venture capital fund receives under  
7 par. (b) and invests in a business, the venture capital fund invests \$2 in that business  
8 from sources other than the investment manager.

9 5. Provide to the investment manager the information necessary for the  
10 investment manager to complete the annual report under sub. (7) (a).

11 6. Disclose to the investment manager and the corporation any interest that  
12 the venture capital fund or an owner, stockholder, partner, officer, director, member,  
13 employee, or agent of the venture capital fund holds in a business in which the  
14 venture capital fund invests or intends to invest moneys received under par. (b).

15 (e) The investment manager's profit-sharing agreement with each venture  
16 capital fund that receives moneys under par. (b) shall be on terms that are  
17 substantially equivalent to the terms applicable for other funding sources of the  
18 venture capital fund.

19 (6) SPECIAL REQUIREMENTS FOR INVESTMENTS OF MONEYS CONTRIBUTED BY THE  
20 CORPORATION. (a) The investment manager shall hold in an escrow account its gross  
21 proceeds from all investments of the moneys designated under sub. (5) (b) 1. until the  
22 investment manager satisfies par. (b).

23 (b) At least annually, the investment manager shall pay the moneys held under  
24 par. (a) to the secretary of administration for deposit into the general fund until the  
25 investment manager has paid a total of \$25,000,000 under this paragraph.

**BILL**

1 (c) After the investment manager satisfies par. (b), the investment manager  
2 shall pay 90 percent of its gross proceeds from investments of the moneys designated  
3 under sub. (5) (b) 1. to the secretary of administration for deposit into the general  
4 fund.

5 (7) ANNUAL REPORT OF THE INVESTMENT MANAGER. (a) Annually, within 90 days  
6 after the end of the investment manager's fiscal year, the investment manager shall  
7 submit a report to the corporation for that fiscal year that includes all of the  
8 following:

9 1. An audit of the investment manager's financial statements performed by an  
10 independent certified public accountant.

11 2. The investment manager's internal rate of return from investments under  
12 sub. (5) (b).

13 3. For each venture capital fund that contracts with the investment manager  
14 under sub. (5) (d), all of the following:

15 a. The name and address of the venture capital fund.

16 b. The amounts invested in the venture capital fund under sub. (5) (b).

17 c. An accounting of any fee the venture capital fund paid to itself or any  
18 principal or manager of the venture capital fund.

19 4. For each business in which a venture capital fund held an investment of  
20 moneys the venture capital fund received under sub. (5) (b), all of the following:

21 a. The name and address of the business.

22 b. A description of the nature of the business.

23 c. An identification of the venture capital fund that made the investment in the  
24 business.

# BILL

d. The amount of each investment in the business and the amount invested by the venture capital fund from funding sources other than the investment manager.

e. The internal rate of return realized by the venture capital fund on the investment in the business.

f. A statement of the number of employees the business employed when the venture capital fund first invested moneys in the business that the venture capital fund received under sub. (5) (b), the number of employees the business employed on the first day of the investment manager's fiscal year, and the number of employees the business employed on the last day of the investment manager's fiscal year.

(b) No later than 10 days after it receives the investment manager's report under par. (a), the corporation shall submit the report to the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2).

(8) CORPORATION PROGRESS REPORTS. In 2015 and 2018, no later than March 1, the corporation shall submit reports to the joint committee on finance that include all of the following:

(a) A comprehensive assessment of the performance to date of the investment program under this section.

(b) Any recommendations the corporation has for improvement of the investment program under this section and the specific actions the corporation intends to take or proposes to be taken to implement those recommendations.

(c) Any recommendations the investment board has for improvement of the investment program under this section and the specific actions the investment board proposes to be taken to implement those recommendations.

**(END)**

## Gallagher, Michael

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**From:** Spencer, Matt  
**Sent:** Monday, April 22, 2013 12:46 PM  
**To:** Gallagher, Michael  
**Cc:** Evenson, Andrew  
**Subject:** Meeting today

Sorry about the meeting today. It was not intended to be a discussion on the merits of the bill, but rather a description of some of the language.

There will be three changes to the draft.

- 1.) On page 7 lines 20-20 amend language to "At least annually, the investment manager shall pay *any* moneys held under par. (a) to the secretary of administration....."
- 2.) Currently the draft states that each fund may receive a maximum of \$5 Million. We will be changing it to a maximum of \$10 million, but there must be a minimum of 4 funds.
- 3.) The moneys must be invested in companies that have less than 150 employees at the time of original investment.

Thanks for your help on this

Matthew Spencer  
Office of Representative Mike Kuglitsch  
(608) 267-5158

## Gallagher, Michael

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**From:** Gallagher, Michael  
**Sent:** Friday, April 19, 2013 11:14 AM  
**To:** Spencer, Matt  
**Subject:** RE: Few Changes

Matt: No problem. See my responses in red below. I will hold off on the redraft until I get final word from you.

Mike

### Mike Gallagher

Attorney  
Wisconsin Legislative Reference Bureau  
(608) 267-7511

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**From:** Spencer, Matt  
**Sent:** Friday, April 19, 2013 10:49 AM  
**To:** Gallagher, Michael  
**Subject:** Few Changes

Sorry to keep you on toes on a Friday.

On page 7, beginning around lines 23-25, there's some language about the state being paid back that might need to be clarified. "At least annually, the investment shall pay the moneys held under para. (a)" to the state. Well, for the first three years, there may not be ANY money to pay the state because that's when investments are being made and returns are unlikely right out of the box. How do we fix this problem, we do not want to punish the investors that haven't seen any returns yet.

MPG—Under the draft, if there are no moneys in the escrow account, nothing would be paid that year. There are only moneys in the escrow account if the investment manager has returns on its investments (see par. (a), page 7, lines 20-22). To clarify, I will amend the language under paragraph (b) as follows: "At least annually, the investment manager shall pay *any* monys held under par. (a) to the secretary of administration.....". Does that work for you?

Matt:  
OK

It also reads a bit like the state would be paid first, which would not be acceptable to other limited partners who would be matching 2-for-1. But maybe I am reading that wrong.

The intent should have been that the principle and fees shall repaid to all limited partners, including the state, before any disbursement of profits to the manager. Once all principle and fees have been repaid to the state and other partners, the manager will receive 10% of profits, with the 90% being distributed to the state and partners in proportion to their original investments.

MPG--This may be a little tricky. Under the draft, the investment manager must pay the state its gross proceeds from the investments of *state* moneys ("the moneys designated under sub. (5) (b) 1.") until the 25 million is paid off. It is my understanding that is the intent. The investment manager is also required to raise 5 million from other sources (limited partners). Returns on the investment of those moneys are not paid to the state. The attempted \$2 to \$1 match, required \$1 to \$1 match, occurs at the level of the venture capital funds receiving the investment moneys from the investment manager and investing directly in businesses. The returns for limited partners contributing those matching funds would be subject to those partners' discrete contracts with the venture capital funds making the investments. The investment manager's profit sharing agreements with the venture capital funds must put the investment

Matt:  
OK

manager on the same footing as other investors concerning the investment of state moneys. So, it looks to me like there is no issue here. Do you want me to do anything on this in the redraft? Give me a call if you want to discuss this.

Finally we want to change the maximum dollar amount that any fund can receive. Previously we had it at 10, in this draft we have it at 5. We have reached a compromise of a maximum of 10 million and there must be at least 4 funds.

MPG—I will make this change. *Matt: OK*

I hope this makes sense. Let me know if you have any questions. We are working with a few offices and parties, and there may be one or two more changes before this is done.

Thanks,

Matthew Spencer  
Office of Representative Mike Kuglitsch  
(608) 267-5158

**ASSEMBLY BILL 40****SECTION 51**

1 governor and shall assess the state agency for legal services provided by the division  
2 of legal services.

3 2. At the request of any state agency that does not have a secretary who serves  
4 at the pleasure of the governor, the department may provide legal services to the  
5 state agency and shall assess the state agency for legal services provided by the  
6 division of legal services.

7 3. The department shall credit all moneys received from state agencies under  
8 this paragraph to the appropriation account under s. 20.505 (1) (kr).

9 **SECTION 52.** 16.004 (15) (bm) of the statutes is repealed.

10 **SECTION 53.** 16.004 (18) of the statutes is created to read:

11 16.004 (18) INTERGOVERNMENTAL AFFAIRS OFFICES. The secretary may maintain  
12 intergovernmental affairs offices to conduct public outreach and promote  
13 coordination between agencies, as defined in s. 16.70 (1e), and authorities, as defined  
14 in s. 16.70 (2).

15 **SECTION 54.** 16.004 (19) of the statutes is created to read:

16 16.004 (19) CAPITAL INVESTMENT PROGRAM. In consultation with the director of  
17 the office of business development, the secretary shall provide \$25,000,000 in fiscal  
18 year 2013-14 for a capital investment program to make coinvestments in business  
19 startups and investment capital projects.

20 **SECTION 55.** 16.283 (1) (b) 3. of the statutes is amended to read:

21 16.283 (1) (b) 3. A person who is in receipt of an award from the U.S.  
22 department of veterans affairs of a service-connected disability rating under 38 USC  
23 1114 or 1134 of at least ~~30~~ 20 percent.

24 **SECTION 56.** 16.283 (3) (b) of the statutes is renumbered 16.283 (3) (b) 1m.

25 **SECTION 57.** 16.283 (3) (b) 2m. of the statutes is created to read:

## ASSEMBLY BILL 40

## SECTION 410

1 tuition at tribal colleges under s. 45.205 (2). All moneys transferred from the  
2 appropriation account under s. 20.505 (8) (hm) 13m. shall be credited to this  
3 appropriation account. Notwithstanding s. 20.001 (3) (a), the unencumbered  
4 balance on June 30 of each year shall revert to the appropriation account under s.  
5 20.505 (8) (hm).

6 **SECTION 411.** 20.485 (2) (rm) of the statutes is amended to read:

7 20.485 (2) (rm) *Veterans assistance ~~program~~ programs; fish and game vouchers.*

8 Biennially, the amounts in the schedule for general program operations of the  
9 veterans assistance program under s. 45.43 ~~and~~, for grants under s. 45.03 (13) (j), ~~and~~  
10 for reimbursements to the department of natural resources under s. 29.1945 (2).

11 **SECTION 412.** 20.485 (2) (vm) of the statutes is amended to read:

12 20.485 (2) (vm) *Assistance to needy veterans and veteran start-up businesses.*

13 The amounts in the schedule for aid payments under s. 45.40 and for the grant to  
14 VETransfer, Inc., under s. 45.45.

15 **SECTION 413.** 20.485 (2) (vw) of the statutes is amended to read:

16 20.485 (2) (vw) *Payments to veterans organizations for claims service; grants*  
17 *for the operation of Camp American Legion; grants to American Indian tribes and*  
18 *bands.* The amounts in the schedule ~~to pay for payments to~~ veterans organizations  
19 for claims services ~~as prescribed in~~ under s. 45.41 (2) and (3m), for grants to the  
20 Wisconsin department of the American Legion under s. 45.41 (5) to operate Camp  
21 American Legion, and for grants to American Indian tribes and bands under s. 45.82  
22 (4).

23 **SECTION 414.** 20.505 (1) (f) of the statutes is created to read:

24 20.505 (1) (f) *Capital investment program.* The amounts in the schedule for the  
25 capital investment program under s. 16.004 (19).



**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

Regen

puFu

- 1 AN ACT *to create* 25.17 (72), 238.03 (4) and 238.155 of the statutes; relating to:
- 2 venture capital investment program.

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***Analysis by the Legislative Reference Bureau***

This bill directs the Wisconsin Economic Development Corporation (WEDC) to establish an economic development program that operates like what is often referred to as a "fund of funds." Typically, under a fund of funds investment model, an investment fund invests moneys with other investment funds that in turn invest those moneys directly in operating businesses. Under this bill, WEDC must contract with an investment manager to manage investments in venture capital funds and Wisconsin businesses.

Before WEDC contracts with an investment manager, WEDC and the State of Wisconsin Investment Board (SWIB) must form a committee to select the investment manager. A majority of the committee's members must be representatives of SWIB. WEDC's proposed contract with the investment manager is subject to passive review by the Joint Committee on Finance (JCF). However, under the bill, JCF's review of the contract is limited to determining whether the contract is contrary to the bill or fails to implement an applicable provision of the bill.

The bill requires WEDC to pay \$25,000,000 to the investment manager for investments in venture capital funds. The bill also requires the investment manager to contribute to those investments \$300,000 of its own moneys and \$5,000,000 raised from other funding sources. The investment manager must attempt to invest all of those moneys within 24 months after the date the investment manager executes the contract with the corporation, and the investment manager must invest those

Thane  
10  
X money in at least four different venture capital funds. The investment manager may not invest more than \$6,000,000 in any one venture capital fund. X

The bill requires the investment manager to contract with each venture capital fund that receives moneys under the program created in the bill. Under that contract, each venture capital fund must do all of the following:

X 1. Invest all of the moneys the venture capital fund receives under the program in businesses that are headquartered in Wisconsin, and employ at least 50 percent of their full-time employees in Wisconsin. If, within three years after the venture capital fund makes an investment in a business under the program, the business relocates its headquarters outside of Wisconsin or fails to employ at least 50 percent of its full-time employees in Wisconsin, the venture capital fund must recover the total amount of moneys the venture capital fund invested in the business under the program, including any matching funds, and reinvest those moneys in one or more eligible businesses, subject to the bill's requirements.

2. Invest at least one-half of those moneys in businesses within 24 months after the venture capital fund receives the moneys and invest all of the moneys in businesses within 48 months.

3. Invest all of those moneys in businesses in the agriculture, information technology, engineered products, advanced manufacturing, or medical devices and imaging industries and attempt to ensure that those moneys are invested in businesses that are diverse with respect to geographic location within Wisconsin.

4. At least match the amount of the moneys the investment manager contributes to an investment in a business with an investment of moneys in that business that the venture capital fund has raised from other funding sources. The bill also requires the investment manager to attempt to ensure that, on average, a venture capital fund invests \$2 in a business for every \$1 the investment manager contributes to the investment in that business.

5. Provide to the investment manager the information necessary for the investment manager to make its annual report to WEDC, described below.

6. Disclose to the investment manager and to WEDC any interest that the venture capital fund or one of its owners or other representatives or agents holds in a business in which the venture capital fund invests or intends to invest moneys under the program.

Similarly, the bill requires the investment manager to disclose to WEDC any interest that it or an owner or other representative or agent of the investment manager holds in a venture capital fund that receives moneys under the program or a business in which a venture capital fund invests such moneys. Also, the investment manager's profit-sharing agreement with a venture capital fund under the program must be on terms that are substantially equivalent to the terms applicable for other funding sources of the venture capital fund.

Under the bill, the investment manager must set aside and pay to the state its proceeds from investments of the moneys contributed to the program by WEDC until the investment manager has paid the state \$25,000,000, the amount of WEDC's contribution. After that point, the investment manager must pay 90 percent of its proceeds from such investments to the state.

X and employ fewer than 150 full-time employees when the venture capital program first invests in the business under the program

The bill requires the investment manager to submit a report to WEDC each year within 90 days after the end of the investment manager's fiscal year that includes all of the following:

1. An audit of the investment manager's financial statements performed by an independent certified public accountant.

2. The investment manager's internal rate of return from investments in venture capital funds under the program.

3. For each venture capital fund that received an investment under the program: a) the name and address of the venture capital fund; b) the amount of the investment; and c) an accounting of any fees the venture capital fund paid to itself or any principal or manager.

4. For each business in which a venture capital fund held an investment of moneys contributed by the investment manager under the program: a) the name and address of the business; b) a description of the nature of the business; c) an identification of the venture capital fund that made the investment; d) the amount of each investment in the business and the amount contributed by the venture capital fund; e) the internal rate of return realized by the venture capital fund on the investment; and f) a statement of the number of employees the business employed when the venture capital fund first invested in the business under the program, the number of employees the business employed on the first day of the investment manager's fiscal year, and the number of employees the business employed on the last day of the investment manager's fiscal year.

WEDC must submit the investment manager's report to the legislature.

The bill also requires WEDC to submit to JCF two progress reports, one in 2015 and one in 2018. Each report must include all of the following:

1. A comprehensive assessment of the performance to date of the investment program created in the bill.

2. Any recommendations WEDC has for improving the investment program and the specific actions WEDC intends to take or proposes to be taken to implement those recommendations.

3. Any recommendations SWIB has for improving the investment program and the specific actions SWIB proposes to be taken to implement those recommendations.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

---

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           SECTION 1. 25.17 (72) of the statutes is created to read:

2           25.17 (72) Appoint the board's representatives to the committee under s.  
3           238.155 (3) (a).

4           SECTION 2. 238.03 (4) of the statutes is created to read:

1           238.03 (4) The board shall appoint the corporation's representatives to the  
2 committee under s. 238.155 (3) (a).

3           **SECTION 3.** 238.155 of the statutes is created<sup>✓</sup> to read:

4           **238.155 Fund of funds investment program.** (1) **DEFINITION.** In this  
5 section, "investment manager" means the person the committee selects under sub.  
6 (3) (a).

7           **(2) ESTABLISHMENT OF PROGRAM.** The corporation shall establish an economic  
8 development program for the investment of moneys in venture capital funds that  
9 invest in businesses located in this state.

10          **(3) SELECTION OF INVESTMENT MANAGER.** (a) The investment board and the  
11 corporation shall form a committee, consisting of representatives of the investment  
12 board and the corporation, to select the investment manager. The majority of the  
13 committee's members shall be representatives of the investment board. The  
14 committee shall select a person as investment manager that has expertise in the  
15 venture capital or private equity asset class.

16          (b) 1. The corporation shall notify in writing the joint committee on finance of  
17 the investment manager selected under par. (a). The notice shall include the  
18 corporation's proposed contract with the investment manager.

19          2. If, within 14 working days after the date of the corporation's notice under  
20 subd. 1., the cochairpersons of the joint committee on finance do not notify the  
21 corporation that the committee has scheduled a meeting to determine whether the  
22 corporation's proposed contract with the investment manager is contrary to this  
23 section or fails to implement an applicable provision of subs. (4) to (7), the corporation  
24 and investment manager may execute that contract. If, within 14 working days after  
25 the date of that notice, the cochairpersons of the committee notify the corporation

1 that the committee has scheduled that meeting, the corporation and investment  
2 manager may execute the contract unless the committee determines at that meeting  
3 that the contract, in whole or in part, is contrary to this section or fails to implement  
4 an applicable provision of subs. (4) to (7).

5 (4) CONTRACT WITH INVESTMENT MANAGER; DISCLOSURE REQUIREMENT. (a) Subject  
6 to sub. (3) (b), the corporation shall contract with the investment manager. The  
7 contract shall establish the investment manager's compensation, including any  
8 management fee. Any management fee may not exceed \$250,000 annually. The  
9 investment manager's total compensation under the contract, including all  
10 management fees paid, may not exceed \$800,000.

11 (b) The investment manager shall disclose to the corporation any interest that  
12 it or an owner, stockholder, partner, officer, director, member, employee, or agent of  
13 the investment manager has in a venture capital fund that receives moneys under  
14 sub. (5) (b) or a business in which a venture capital fund invests those moneys.

15 (5) INVESTMENTS IN VENTURE CAPITAL FUNDS. (a) Subject to sub. (4) (a), the  
16 corporation shall pay \$25,000,000 to the investment manager in fiscal 2013-14.

17 (b) The investment manager shall invest the following moneys in at least 4  
18 venture capital funds:

- 19 1. The moneys under par. (a).
- 20 2. At least \$300,000 of the investment manager's own moneys.
- 21 3. At least \$5,000,000 that the investment manager raises from sources other  
22 than the corporation.

23 (c) 1. Of the moneys designated under par. (b), the investment manager may  
24 not invest more than \$5,000,000 in a single venture capital fund.

in venture  
capital funds

2. Of the moneys designated under par. (b), the investment manager shall attempt to invest at least one-half of those moneys within 12 months after the date the investment manager executes the contract under sub. (4) (a), and the investment manager shall attempt to invest all of those moneys within 24 months after that date.

(d) The investment manager shall contract with each venture capital fund that receives moneys under par. (b). Each contract shall require the venture capital fund to do all of the following:

1. Invest all of the moneys it receives under par. (b) in one or more businesses that are headquartered in this state, <sup>and</sup> ~~and that~~ employ at least 50 percent of their full-time employees, including any subsidiary or other affiliated entity, in this state.

If, within 3 years after the venture capital fund makes an investment in a business under this subdivision, the business relocates its headquarters outside of this state or fails to employ at least 50 percent of its full-time employees, including any subsidiary or other affiliated entity, in this state, the venture capital fund shall recover from the business the total amount of moneys the venture capital fund invested in the business under this subdivision and subd. 4. and reinvest those moneys in one or more businesses that are eligible to receive an investment under this subdivision, subject to the requirements of this section.

2. Invest at least one-half of any moneys it receives under par. (b) in businesses within 24 months after the date it receives those moneys and invest all of those moneys in businesses within 48 months after that date.

3. Invest all of the moneys it receives under paragraph (b) in businesses in the agriculture, information technology, engineered products, advanced manufacturing, or medical devices and imaging industries and attempt to ensure that all of those

and employ fewer than 150 full-time employees, including any subsidiary or other affiliated entity, when the venture capital fund first invests moneys in the business under this section.

1 moneys are invested in businesses that are diverse with respect to geographic  
2 location within this state.

3 4. At least match any moneys it receives under par. (b) and invests in a business  
4 with an investment in that business of moneys the venture capital fund has raised  
5 from sources other than the investment manager. The investment manager shall  
6 attempt to ensure that, on average, for every \$1 a venture capital fund receives under  
7 par. (b) and invests in a business, the venture capital fund invests \$2 in that business  
8 from sources other than the investment manager.

9 5. Provide to the investment manager the information necessary for the  
10 investment manager to complete the annual report under sub. (7) (a).

11 6. Disclose to the investment manager and the corporation any interest that  
12 the venture capital fund or an owner, stockholder, partner, officer, director, member,  
13 employee, or agent of the venture capital fund holds in a business in which the  
14 venture capital fund invests or intends to invest moneys received under par. (b).

15 (e) The investment manager's profit-sharing agreement with each venture  
16 capital fund that receives moneys under par. (b) shall be on terms that are  
17 substantially equivalent to the terms applicable for other funding sources of the  
18 venture capital fund.

19 (6) SPECIAL REQUIREMENTS FOR INVESTMENTS OF MONEYS CONTRIBUTED BY THE  
20 CORPORATION. (a) The investment manager shall hold in an escrow account its gross  
21 proceeds from all investments of the moneys designated under sub. (5) (b) 1. until the  
22 investment manager satisfies par. (b).

23 (b) At least annually, the investment manager shall pay <sup>any</sup> the moneys held under  
24 par. (a) to the secretary of administration for deposit into the general fund until the  
25 investment manager has paid a total of \$25,000,000 under this paragraph.

1 (c) After the investment manager satisfies par. (b), the investment manager  
2 shall pay 90 percent of its gross proceeds from investments of the moneys designated  
3 under sub. (5) (b) 1. to the secretary of administration for deposit into the general  
4 fund.

5 (7) ANNUAL REPORT OF THE INVESTMENT MANAGER. (a) Annually, within 90 days  
6 after the end of the investment manager's fiscal year, the investment manager shall  
7 submit a report to the corporation for that fiscal year that includes all of the  
8 following:

9 1. An audit of the investment manager's financial statements performed by an  
10 independent certified public accountant.

11 2. The investment manager's internal rate of return from investments under  
12 sub. (5) (b).

13 3. For each venture capital fund that contracts with the investment manager  
14 under sub. (5) (d), all of the following:

15 a. The name and address of the venture capital fund.

16 b. The amounts invested in the venture capital fund under sub. (5) (b).

17 c. An accounting of any fee the venture capital fund paid to itself or any  
18 principal or manager of the venture capital fund.

19 4. For each business in which a venture capital fund held an investment of  
20 moneys the venture capital fund received under sub. (5) (b), all of the following:

21 a. The name and address of the business.

22 b. A description of the nature of the business.

23 • c. An identification of the venture capital fund that made the investment in the  
24 business.

d. The amount of each investment in the business and the amount invested by the venture capital fund from funding sources other than the investment manager.

e. The internal rate of return realized by the venture capital fund on the investment in the business.

f. A statement of the number of employees the business employed when the venture capital fund first invested moneys in the business that the venture capital fund received under sub. (5) (b), the number of employees the business employed on the first day of the investment manager's fiscal year, and the number of employees the business employed on the last day of the investment manager's fiscal year.

(b) No later than 10 days after it receives the investment manager's report under par. (a), the corporation shall submit the report to the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2).

(8) CORPORATION PROGRESS REPORTS. In 2015 and 2018, no later than March 1, the corporation shall submit reports to the joint committee on finance that include all of the following:

(a) A comprehensive assessment of the performance to date of the investment program under this section.

(b) Any recommendations the corporation has for improvement of the investment program under this section and the specific actions the corporation intends to take or proposes to be taken to implement those recommendations.

(c) Any recommendations the investment board has for improvement of the investment program under this section and the specific actions the investment board proposes to be taken to implement those recommendations.

**(END)**

1812

**Gallagher, Michael**

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**From:** Spencer, Matt  
**Sent:** Monday, April 22, 2013 2:49 PM  
**To:** Gallagher, Michael  
**Cc:** Evenson, Andrew  
**Subject:** RE: Meeting today

Mike,

My mistake, it was supposed to be 50% of the moneys go to businesses with less than 150 employees at the time of original investment.

Matthew Spencer  
Office of Representative Mike Kuglitsch  
(608) 267-5158

---

**From:** Gallagher, Michael  
**Sent:** Monday, April 22, 2013 12:49 PM  
**To:** Spencer, Matt  
**Cc:** Evenson, Andrew  
**Subject:** RE: Meeting today

No problem. Andrew: should these changes be made to both drafts?

**Mike Gallagher**  
Attorney  
Wisconsin Legislative Reference Bureau  
(608) 267-7511

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**From:** Spencer, Matt  
**Sent:** Monday, April 22, 2013 12:46 PM  
**To:** Gallagher, Michael  
**Cc:** Evenson, Andrew  
**Subject:** Meeting today

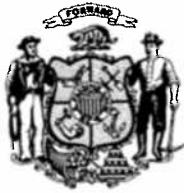
Sorry about the meeting today. It was not intended to be a discussion on the merits of the bill, but rather a description of some of the language.

There will be three changes to the draft.

- 1.) On page 7 lines 20-20 amend language to "At least annually, the investment manager shall pay *any* moneys held under par. (a) to the secretary of administration....."
- 2.) Currently the draft states that each fund may receive a maximum of \$5 Million. We will be changing it to a maximum of \$10 million, but there must be a minimum of 4 funds.
- 3.) The moneys must be invested in companies that have less than 150 employees at the time of original investment.

Thanks for your help on this

Matthew Spencer



## 2013 BILL

Done

Regen

- 1 AN ACT *to create* 25.17 (72), 238.03 (4) and 238.155 of the statutes; relating to:
- 2 venture capital investment program.

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### *Analysis by the Legislative Reference Bureau*

This bill directs the Wisconsin Economic Development Corporation (WEDC) to establish an economic development program that operates like what is often referred to as a "fund of funds." Typically, under a fund of funds investment model, an investment fund invests moneys with other investment funds that in turn invest those moneys directly in operating businesses. Under this bill, WEDC must contract with an investment manager to manage investments in venture capital funds and Wisconsin businesses.

Before WEDC contracts with an investment manager, WEDC and the State of Wisconsin Investment Board (SWIB) must form a committee to select the investment manager. A majority of the committee's members must be representatives of SWIB. WEDC's proposed contract with the investment manager is subject to passive review by the Joint Committee on Finance (JCF). However, under the bill, JCF's review of the contract is limited to determining whether the contract is contrary to the bill or fails to implement an applicable provision of the bill.

The bill requires WEDC to pay \$25,000,000 to the investment manager for investments in venture capital funds. The bill also requires the investment manager to contribute to those investments \$300,000 of its own moneys and \$5,000,000 raised from other funding sources. The investment manager must attempt to invest all of those moneys within 24 months after the date the investment manager executes the contract with the corporation, and the investment manager must invest those

## BILL

invest at least one-half of those moneys in businesses that

moneys in at least four different venture capital funds. The investment manager may not invest more than \$10,000,000 in any one venture capital fund.

The bill requires the investment manager to contract with each venture capital fund that receives moneys under the program created in the bill. Under that contract, each venture capital fund must do all of the following: and

1. Invest all of the moneys the venture capital fund receives under the program in businesses that are headquartered in Wisconsin, employ at least 50 percent of their full-time employees in Wisconsin, and employ fewer than 150 full-time employees when the venture capital program first invests in the business under the program. If, within three years after the venture capital fund makes an investment in a business under the program, the business relocates its headquarters outside of Wisconsin or fails to employ at least 50 percent of its full-time employees in Wisconsin, the venture capital fund must recover the total amount of moneys the venture capital fund invested in the business under the program, including any matching funds, and reinvest those moneys in one or more eligible businesses, subject to the bill's requirements.

2. Invest at least one-half of those moneys in businesses within 24 months after the venture capital fund receives the moneys and invest all of the moneys in businesses within 48 months.

3. Invest all of those moneys in businesses in the agriculture, information technology, engineered products, advanced manufacturing, or medical devices and imaging industries and attempt to ensure that those moneys are invested in businesses that are diverse with respect to geographic location within Wisconsin.

4. At least match the amount of the moneys the investment manager contributes to an investment in a business with an investment of moneys in that business that the venture capital fund has raised from other funding sources. The bill also requires the investment manager to attempt to ensure that, on average, a venture capital fund invests \$2 in a business for every \$1 the investment manager contributes to the investment in that business.

5. Provide to the investment manager the information necessary for the investment manager to make its annual report to WEDC, described below.

6. Disclose to the investment manager and to WEDC any interest that the venture capital fund or one of its owners or other representatives or agents holds in a business in which the venture capital fund invests or intends to invest moneys under the program.

Similarly, the bill requires the investment manager to disclose to WEDC any interest that it or an owner or other representative or agent of the investment manager holds in a venture capital fund that receives moneys under the program or a business in which a venture capital fund invests such moneys. Also, the investment manager's profit-sharing agreement with a venture capital fund under the program must be on terms that are substantially equivalent to the terms applicable for other funding sources of the venture capital fund.

Under the bill, the investment manager must set aside and pay to the state its proceeds from investments of the moneys contributed to the program by WEDC until the investment manager has paid the state \$25,000,000, the amount of WEDC's

**BILL**

contribution. After that point, the investment manager must pay 90 percent of its proceeds from such investments to the state.

The bill requires the investment manager to submit a report to WEDC each year within 90 days after the end of the investment manager's fiscal year that includes all of the following:

1. An audit of the investment manager's financial statements performed by an independent certified public accountant.

2. The investment manager's internal rate of return from investments in venture capital funds under the program.

3. For each venture capital fund that received an investment under the program: a) the name and address of the venture capital fund; b) the amount of the investment; and c) an accounting of any fees the venture capital fund paid to itself or any principal or manager.

4. For each business in which a venture capital fund held an investment of moneys contributed by the investment manager under the program: a) the name and address of the business; b) a description of the nature of the business; c) an identification of the venture capital fund that made the investment; d) the amount of each investment in the business and the amount contributed by the venture capital fund; e) the internal rate of return realized by the venture capital fund on the investment; and f) a statement of the number of employees the business employed when the venture capital fund first invested in the business under the program, the number of employees the business employed on the first day of the investment manager's fiscal year, and the number of employees the business employed on the last day of the investment manager's fiscal year.

WEDC must submit the investment manager's report to the legislature.

The bill also requires WEDC to submit to JCF two progress reports, one in 2015 and one in 2018. Each report must include all of the following:

1. A comprehensive assessment of the performance to date of the investment program created in the bill.

2. Any recommendations WEDC has for improving the investment program and the specific actions WEDC intends to take or proposes to be taken to implement those recommendations.

3. Any recommendations SWIB has for improving the investment program and the specific actions SWIB proposes to be taken to implement those recommendations.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 25.17 (72) of the statutes is created to read:

2           25.17 (72) Appoint the board's representatives to the committee under s.

3           238.155 (3) (a).

**BILL**

1           **SECTION 2.** 238.03 (4) of the statutes is created to read:

2           238.03 (4) The board shall appoint the corporation's representatives to the  
3 committee under s. 238.155 (3) (a).

4           **SECTION 3.** 238.155 of the statutes is created to read:

5           **238.155 Fund of funds investment program.** (1) **DEFINITION.** In this  
6 section, "investment manager" means the person the committee selects under sub.  
7 (3) (a).

8           **(2) ESTABLISHMENT OF PROGRAM.** The corporation shall establish an economic  
9 development program for the investment of moneys in venture capital funds that  
10 invest in businesses located in this state.

11           **(3) SELECTION OF INVESTMENT MANAGER.** (a) The investment board and the  
12 corporation shall form a committee, consisting of representatives of the investment  
13 board and the corporation, to select the investment manager. The majority of the  
14 committee's members shall be representatives of the investment board. The  
15 committee shall select a person as investment manager that has expertise in the  
16 venture capital or private equity asset class.

17           (b) 1. The corporation shall notify in writing the joint committee on finance of  
18 the investment manager selected under par. (a). The notice shall include the  
19 corporation's proposed contract with the investment manager.

20           2. If, within 14 working days after the date of the corporation's notice under  
21 subd. 1., the cochairpersons of the joint committee on finance do not notify the  
22 corporation that the committee has scheduled a meeting to determine whether the  
23 corporation's proposed contract with the investment manager is contrary to this  
24 section or fails to implement an applicable provision of subs. (4) to (7), the corporation  
25 and investment manager may execute that contract. If, within 14 working days after

**BILL**

1 the date of that notice, the cochairpersons of the committee notify the corporation  
2 that the committee has scheduled that meeting, the corporation and investment  
3 manager may execute the contract unless the committee determines at that meeting  
4 that the contract, in whole or in part, is contrary to this section or fails to implement  
5 an applicable provision of subs. (4) to (7).

6 (4) CONTRACT WITH INVESTMENT MANAGER; DISCLOSURE REQUIREMENT. (a) Subject  
7 to sub. (3) (b), the corporation shall contract with the investment manager. The  
8 contract shall establish the investment manager's compensation, including any  
9 management fee. Any management fee may not exceed \$250,000 annually. The  
10 investment manager's total compensation under the contract, including all  
11 management fees paid, may not exceed \$800,000.

12 (b) The investment manager shall disclose to the corporation any interest that  
13 it or an owner, stockholder, partner, officer, director, member, employee, or agent of  
14 the investment manager has in a venture capital fund that receives moneys under  
15 sub. (5) (b) or a business in which a venture capital fund invests those moneys.

16 (5) INVESTMENTS IN VENTURE CAPITAL FUNDS. (a) Subject to sub. (4) (a), the  
17 corporation shall pay \$25,000,000 to the investment manager in fiscal 2013-14.

18 (b) The investment manager shall invest the following moneys in at least 4  
19 venture capital funds:

- 20 1. The moneys under par. (a).
- 21 2. At least \$300,000 of the investment manager's own moneys.
- 22 3. At least \$5,000,000 that the investment manager raises from sources other  
23 than the corporation.

24 (c) 1. Of the moneys designated under par. (b), the investment manager may  
25 not invest more than \$10,000,000 in a single venture capital fund.

## BILL

1           2. Of the moneys designated under par. (b), the investment manager shall  
2 attempt to invest at least one-half of those moneys in venture capital funds within  
3 12 months after the date the investment manager executes the contract under sub.  
4 (4) (a), and the investment manager shall attempt to invest all of those moneys in  
5 venture capital funds within 24 months after that date.

6           (d) The investment manager shall contract with each venture capital fund that  
7 receives moneys under par. (b). Each contract shall require the venture capital fund  
8 to do all of the following:

9           1. Invest all of the moneys it receives under par. (b) in one or more businesses  
10 that are headquartered in this state <sup>and</sup> employ at least 50 percent of their full-time  
11 employees, including any subsidiary or other affiliated entity, in this state, and

12 employ fewer than 150 full-time employees, including any subsidiary or other  
13 affiliated entity, when the venture capital fund first invests moneys in the business  
14 under this section. If, within 3 years after the venture capital fund makes an  
15 investment in a business under this subdivision, the business relocates its  
16 headquarters outside of this state or fails to employ at least 50 percent of its full-time  
17 employees, including any subsidiary or other affiliated entity, in this state, the  
18 venture capital fund shall recover from the business the total amount of moneys the  
19 venture capital fund invested in the business under this subdivision and subd. 4. and  
20 reinvest those moneys in one or more businesses that are eligible to receive an  
21 investment under this subdivision, subject to the requirements of this section.

22           2. Invest at least one-half of any moneys it receives under par. (b) in businesses  
23 within 24 months after the date it receives those moneys and invest all of those  
24 moneys in businesses within 48 months after that date.

invest at least one-half of those moneys in one or more businesses that

**BILL**

1           3. Invest all of the moneys it receives under paragraph (b) in businesses in the  
2     agriculture, information technology, engineered products, advanced manufacturing,  
3     or medical devices and imaging industries and attempt to ensure that all of those  
4     moneys are invested in businesses that are diverse with respect to geographic  
5     location within this state.

6           4. At least match any moneys it receives under par. (b) and invests in a business  
7     with an investment in that business of moneys the venture capital fund has raised  
8     from sources other than the investment manager. The investment manager shall  
9     attempt to ensure that, on average, for every \$1 a venture capital fund receives under  
10    par. (b) and invests in a business, the venture capital fund invests \$2 in that business  
11    from sources other than the investment manager.

12          5. Provide to the investment manager the information necessary for the  
13    investment manager to complete the annual report under sub. (7) (a).

14          6. Disclose to the investment manager and the corporation any interest that  
15    the venture capital fund or an owner, stockholder, partner, officer, director, member,  
16    employee, or agent of the venture capital fund holds in a business in which the  
17    venture capital fund invests or intends to invest moneys received under par. (b).

18          (e) The investment manager's profit-sharing agreement with each venture  
19    capital fund that receives moneys under par. (b) shall be on terms that are  
20    substantially equivalent to the terms applicable for other funding sources of the  
21    venture capital fund.

22          **(6) SPECIAL REQUIREMENTS FOR INVESTMENTS OF MONEYS CONTRIBUTED BY THE**  
23    **CORPORATION.** (a) The investment manager shall hold in an escrow account its gross  
24    proceeds from all investments of the moneys designated under sub. (5) (b) 1. until the  
25    investment manager satisfies par. (b).

**BILL**

1 (b) At least annually, the investment manager shall pay any moneys held under  
2 par. (a) to the secretary of administration for deposit into the general fund until the  
3 investment manager has paid a total of \$25,000,000 under this paragraph.

4 (c) After the investment manager satisfies par. (b), the investment manager  
5 shall pay 90 percent of its gross proceeds from investments of the moneys designated  
6 under sub. (5) (b) 1. to the secretary of administration for deposit into the general  
7 fund.

8 **(7) ANNUAL REPORT OF THE INVESTMENT MANAGER.** (a) Annually, within 90 days  
9 after the end of the investment manager's fiscal year, the investment manager shall  
10 submit a report to the corporation for that fiscal year that includes all of the  
11 following:

12 1. An audit of the investment manager's financial statements performed by an  
13 independent certified public accountant.

14 2. The investment manager's internal rate of return from investments under  
15 sub. (5) (b).

16 3. For each venture capital fund that contracts with the investment manager  
17 under sub. (5) (d), all of the following:

18 a. The name and address of the venture capital fund.

19 b. The amounts invested in the venture capital fund under sub. (5) (b).

20 c. An accounting of any fee the venture capital fund paid to itself or any  
21 principal or manager of the venture capital fund.

22 4. For each business in which a venture capital fund held an investment of  
23 moneys the venture capital fund received under sub. (5) (b), all of the following:

24 a. The name and address of the business.

25 b. A description of the nature of the business.

**BILL**

1           c. An identification of the venture capital fund that made the investment in the  
2     business.

3           d. The amount of each investment in the business and the amount invested by  
4     the venture capital fund from funding sources other than the investment manager.

5           e. The internal rate of return realized by the venture capital fund on the  
6     investment in the business.

7           f. A statement of the number of employees the business employed when the  
8     venture capital fund first invested moneys in the business that the venture capital  
9     fund received under sub. (5) (b), the number of employees the business employed on  
10    the first day of the investment manager's fiscal year, and the number of employees  
11    the business employed on the last day of the investment manager's fiscal year.

12          (b) No later than 10 days after it receives the investment manager's report  
13    under par. (a), the corporation shall submit the report to the chief clerk of each house  
14    of the legislature, for distribution to the legislature under s. 13.172 (2).

15          **(8) CORPORATION PROGRESS REPORTS.** In 2015 and 2018, no later than March 1,  
16    the corporation shall submit reports to the joint committee on finance that include  
17    all of the following:

18          (a) A comprehensive assessment of the performance to date of the investment  
19    program under this section.

20          (b) Any recommendations the corporation has for improvement of the  
21    investment program under this section and the specific actions the corporation  
22    intends to take or proposes to be taken to implement those recommendations.

# BILL

1 (c) Any recommendations the investment board has for improvement of the  
2 investment program under this section and the specific actions the investment board  
3 proposes to be taken to implement those recommendations.

**4 (END)**

**Basford, Sarah**

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**From:** Spencer, Matt  
**Sent:** Tuesday, April 23, 2013 2:26 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB -1812/2 Topic: Creation of fund of funds investment program

Please Jacket LRB -1812/2 for the ASSEMBLY.



## 2013 ASSEMBLY BILL 181

April 29, 2013 - Introduced by Representatives KUGLITSCH, CLARK, SUDER, TAUCHEN, KLENKE, J. OTT, PETRYK, KAHL, LEMAHIEU, A. OTT, JAGLER, HONADEL, KOLSTE, BIES, SMITH, BROOKS, KLEEFISCH, TITTL, NYGREN, SARGENT, ENDSLEY, SCHRAA and ~~STONE~~, cosponsored by Senators DARLING, T. CULLEN, LEIBHAM, GUDEX, SCHULTZ and L. TAYLOR. Referred to Committee on Jobs, Economy and Mining.

*Added*

- 1     **AN ACT to create** 25.17 (72), 238.03 (4) and 238.155 of the statutes; **relating to:**  
2     venture capital investment program.

---

### *Analysis by the Legislative Reference Bureau*

This bill directs the Wisconsin Economic Development Corporation (WEDC) to establish an economic development program that operates like what is often referred to as a "fund of funds." Typically, under a fund of funds investment model, an investment fund invests moneys with other investment funds that in turn invest those moneys directly in operating businesses. Under this bill, WEDC must contract with an investment manager to manage investments in venture capital funds and Wisconsin businesses.

Before WEDC contracts with an investment manager, WEDC and the State of Wisconsin Investment Board (SWIB) must form a committee to select the investment manager. A majority of the committee's members must be representatives of SWIB. WEDC's proposed contract with the investment manager is subject to passive review by the Joint Committee on Finance (JCF). However, under the bill, JCF's review of the contract is limited to determining whether the contract is contrary to the bill or fails to implement an applicable provision of the bill.

The bill requires WEDC to pay \$25,000,000 to the investment manager for investments in venture capital funds. The bill also requires the investment manager to contribute to those investments \$300,000 of its own moneys and \$5,000,000 raised from other funding sources. The investment manager must attempt to invest all of those moneys within 24 months after the date the investment manager executes the contract with the corporation, and the investment manager must invest those

*corrected*  
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**REVISION REPORT**

**INTRODUCTION, FIRST READING AND REFERENCE OF PROPOSALS**

Under Assembly Rule 17d,  
**Monday, April 29, 2013 at 3:59 PM**  
is considered the official date and time of introduction for the proposals listed in this document.

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**ASSEMBLY BILL 181 (LRB -1812)**

Relating to: venture capital investment program.

Introduced by Representatives Kuglitsch, Clark, Suder, Tauchen, Klenke, J. Ott, Petryk, Kahl, LeMahieu, A. Ott, Jagler, Honadel, Kolste, Bies, Smith, Brooks, Kleefisch, Tittl, Nygren, Sargent, Endsley, Schraa and Stone; cosponsored by Senators Darling, T. Cullen, Leibham, Gudex, Schultz and L. Taylor.

Referred to Committee on **JOBS, ECONOMY AND MINING.**